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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/615,854	07/14/2000	Keith L. Black	CEDAR-044569	4523

7590 03/31/2004

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EXAMINER

QIAN, CELINE X

ART UNIT	PAPER NUMBER
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1636

DATE MAILED: 03/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO. 109 CONTROL NO. 615 854	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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0304

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

The amendment filed on 1/23/04 is not fully responsive to the prior Office action (reasons provided in the attached letter). Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Art Unit: 1636

DETAILED ACTION

Claims 1-3, 12, 13, 18-24, 48, 57-60, 65-71, 135-137, 151-153 and 190-286 are pending in the application.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/23/04 has been entered.

Response to Amendment

The reply filed on 1/23/04 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): The amended claims are drawn to a different invention than the one that is originally elected by Applicants on 2/11/02 and examined in Office Action mailed on 5/9/02 and 1/15/03. MPEP section 821 states, "the general policy of the Office is not to permit the applicant to shift to claiming another invention after an election is once made and action given on the elected subject matter. Note that the applicant cannot, as a matter of right, file a request for continued examination (RCE) to obtain continued examination on the basis of claims that are independent and distinct from the claims previously claimed and examined (i.e., applicant cannot switch inventions by way of an RCE as a matter of right). When claims are presented which the examiner holds are drawn to an invention other than the one elected, he or she should treat the claims as outlined in MPEP § 821.03."

Art Unit: 1636

Newly submitted/amended claims 1-3, 12, 13, 18-24, 48, 57-60, 65-71, 135-137, 151-153 and 190-286 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: These claims are drawn to a method of delivering a medicant to an abnormal brain region or a malignant tumor in a mammalian subject by administering a direct agonist of ATP-sensitive potassium channel to increase the permeability to the medicant to said region, a pharmaceutical composition and a kit comprising the direct agonist of ATP-sensitive potassium channel. The originally elected claims are drawn to a method of delivering a medicant to an abnormal brain region or a malignant tumor in a mammalian subject by administering an *in vivo* activator of calcium activated potassium channel to said mammal, wherein said activator is an activator of soluble guanylyl cyclase, and a pharmaceutical composition and a kit comprising said activator of soluble guanylyl cyclase. Thus, the current pending claims are drawn to a different invention than what is elected originally.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 1-3, 12, 13, 18-24, 48, 57-60, 65-71, 135-137, 151-153 and 190-286 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment.

EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

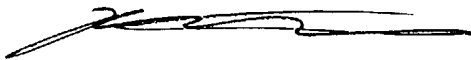
Art Unit: 1636

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Celine X Qian whose telephone number is 571-272-0777. The examiner can normally be reached on 9:30-6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Remy Yucel Ph.D. can be reached on 571-272-0781. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Celine Qian, Ph.D.

A handwritten signature in black ink, appearing to read 'Celine Qian', with a long horizontal flourish extending to the right.